

31135
DO

SERVICE DATE - JUNE 28, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 579X)

CSX TRANSPORTATION, INC.--ABANDONMENT EXEMPTION--
IN PARKE AND VERMILLION COUNTIES, IN

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: June 27, 2000

CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon an approximately 1.17-mile line of its railroad between milepost BD-191.41 at Montezuma and milepost BD-192.58 at Hillsdale in Parke and Vermillion Counties, IN. Notice of the exemption was served and published in the Federal Register on May 26, 2000 (65 FR 34249-50).

The exemption was scheduled to become effective on June 25, 2000, but a formal expression of intent to file an offer of financial assistance (OFA) was timely filed by the Parke County Economic Redevelopment Commission (PCERC), a unit of Parke County Government, to purchase the entire line. This filing automatically stayed the effective date of the exemption until July 5, 2000.¹ By decision served June 23, 2000, the proceeding was reopened and the exemption was made subject to environmental conditions. The decision also held requests for issuance of a notice of interim trail use and a public use condition in abeyance pending completion of the OFA process and stated that PCERC's OFA was due on or before June 26, 2000.

On June 23, 2000, PCERC timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to acquire the entire line pursuant to a donation by CSXT. PCERC states that it believes that CSXT is willing to donate the entire line to its organization for continued rail service and requests that the effective date of the exemption be postponed pending further activity under 49 U.S.C. 10904(d)(2)(A) or (B).

An OFA to acquire a line for continued rail service need not be detailed, but an offeror must show that it is financially responsible and must explain the basis for the disparity between its offer and the carrier's estimate of the purchase or acquisition price.² To demonstrate its

¹ See 49 CFR 1152.27(c)(2)(i).

² In the case of an offer to subsidize continued operations, an offeror must explain the basis
(continued...)

financial responsibility, PCERC states that, as a unit of Parke County Government, its financial responsibility is legally presumed. PCERC has satisfied the requirements of 49 U.S.C. 10904(c) and 49 CFR 1152.27(c)(1)(ii)(C), in explaining that it is not possible to compare its offer to CSXT's estimated net liquidation value and that such a comparison would not be meaningful because PCERC believes that CSXT will donate the line to it.

Because CSXT is reportedly willing to donate the entire line to PCERC and PCERC is presumed to be financially responsible, the effective date of the exemption authorizing the abandonment will be postponed.

Any person filing a request to set terms and conditions must pay the requisite filing fee, set forth at 49 CFR 1002.2(f)(26), which currently is \$14,800. An original and 10 copies of the request should be submitted along with the fee, in an envelope bearing the docket number of the proceeding, along with the words "Attention: Application Unit, Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 CFR 1011.2(a)(7). Any appeal must be filed within 10 days of the service date of this decision and will be heard by the entire Board.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The effective date of the exemption is postponed in order to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.
2. If PCERC and CSXT cannot reach an agreement concerning the rail line, either party may request the Board to establish the terms and conditions of the purchase price on or before July 24, 2000. If no agreement is reached and no request is submitted by that date, the Board will serve a decision vacating this decision and allowing the abandonment exemption to become effective, subject to possible imposition of trail use and public use conditions.

²(...continued)
for the disparity between its subsidy offer and the carrier's estimate of the annual subsidy required to keep the line in operation.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary